



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2015-0675; FRL- 9951-59-Region 4]**

**Air Plan Approval; Kentucky; Source Specific  
Revision for Louisville Gas and Electric**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky through its Energy and Environment Cabinet, Department of Environmental Protection, Division for Air Quality (KY DAQ) on February 13, 2013, for the purpose of establishing emission requirements for the changeover from coal-fired units U4, U5 and U6 to a new natural gas-fired combined cycle (NGCC) generating unit U15 and auxiliary boiler U16 at the Louisville Gas and Electric Company, Cane Run Generating Station (LG & E Cane Run Facility).

**DATES:** This rule will be effective [insert date 30 days after publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2015-0675. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information may not be publicly available, i.e.,

Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jane Spann of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Spann may be reached by telephone at (404) 562-9029 or via electronic mail at [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Ozone is created when chemical reactions between volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) occur in the presence of sunlight. Ozone is reduced by reducing VOC and NO<sub>x</sub> emissions. The Louisville Metro Air Pollution Control District (LMAPCD) adopted regulation 6.42 *Reasonably Available Control Technology Requirements for Major Volatile Organic Compound and Nitrogen Oxides Emitting Facilities* on February 2, 1994.

LMAPCD's regulation 6.42 was submitted to EPA, through the Commonwealth of Kentucky, on May 21, 1999. On October 23, 2001, EPA approved LMAPCD's regulation 6.42, section 4.4 of which requires LMAPCD to submit each source-specific reasonably available control technology (RACT) determination to EPA for approval into the Kentucky SIP. *See* 66 FR 53658. On the same date, EPA approved the NOx RACT plan for LG & E's Cane Run Facility into the SIP. *See* 66 FR 53684.

On June 13, 2011, LG & E submitted to the Air Pollution Control Board of Jefferson County (Board) an application for a permit to construct a new NGCC generating unit U15 and auxiliary boiler U16 and retire coal-fired units U4, U5 and U6 at LG & E's Cane Run Facility to comply with other federal requirements, including the Mercury & Air Toxics Standards and the Cross-State Air Pollution Rule.<sup>1</sup> In response, on July 18, 2012, the Board adopted Amendment 2 establishing NOx emission rates for the new units. On February 13, 2013, KY DAQ, on behalf of LMAPCD, submitted a SIP revision for EPA to approve the LG & E Cane Run Generating Station NOx RACT Plan Amendment 2 into the Kentucky SIP. The LG & E Cane Run Generating Station NOx RACT Plan Amendment 2 includes two parts: Part 1, the existing NOx RACT Plan for the coal-fired units, which will remain in effect until those units are retired; and Part 2, the plan that will become effective upon the start of operation of the NGCC facility and the shut-down of the coal-fired units.

In a notice of proposed rulemaking (NPRM) published on June 15, 2016 (81 FR 39002), EPA proposed to approve Kentucky's February 13, 2013, submission, for the purpose of establishing emission requirements for the changeover from coal-fired units U4, U5 and U6 to a

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<sup>1</sup> Amendment 2 of the February 13, 2013, submittal includes a Dew Point Heater (U17). In 2014, LG&E notified LMAPCD that LG&E is not installing U17 after all.

new NGCC generating unit U15 and auxiliary boiler U16 at the LG & E Cane Run Facility. No comments were received on the June 15, 2016, proposed rulemaking. The details of Kentucky's submittal and the rationale for EPA's actions are further explained in the NPRM. *See* 81 FR 39002 (June 15, 2016).

## **II. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of KY DAQ source-specific provision entitled "Air Pollution Control Board of Jefferson County Board Order - Amendment 2," approved by LMAPCD on July 18, 2012. Therefore, this material has been approved by EPA for inclusion in the SIP, has been incorporated by reference by EPA into that plan, is fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.<sup>2</sup> EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information)

## **III. Final Action**

EPA is taking final action to approve the February 13, 2013, Kentucky SIP revision which adds LG & E Cane Run Generating Station NO<sub>x</sub> RACT Plan Amendment 2 to the federally-approved Kentucky SIP. This SIP revision includes emission requirements for the changeover from coal-fired units to natural gas-fired combined cycle EGUs and associated equipment.

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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<sup>2</sup> 62 FR 27968 (May 22, 1997).

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after

it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 17, 2016.

Heather McTeer Toney,  
Regional Administrator,  
Region 4.



40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart S—Kentucky**

2. Section 52.920(d) is amended by adding a new entry “LG & E Cane Run Generating Station NO<sub>x</sub> RACT Plan Amendment 2” at the end of the table to read as follows:

**§ 52.920 Identification of plan.**

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(d) \* \* \*

**EPA-Approved Kentucky Source-Specific Requirements**

Name of source	Permit No.	State effective date	EPA approval date	Explanations
**	**	*	*	*
LG & E Cane Run Generating Station NO <sub>x</sub> RACT Plan Amendment 2	N/A	7/18/2012	[Insert date of publication in <u>Federal Register</u> ], [Insert citation of publication]	

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[FR Doc. 2016-20656 Filed: 8/29/2016 8:45 am; Publication Date: 8/30/2016]